



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable George H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Sir:

Opinion No. O-5383
Re: Payment of pensions under
Senate Bill No. 24, Acts
of the 48th Legislature.

We copy herewith your letter of June 8, 1943:

"Senate Bill No. 24, Acts of the Regular Session of the Forty-eighth Legislature, amends Article 6221 and becomes effective ninety days after adjournment, or August 10, 1943.

"The question has arisen in this department as to the correct amount to pay Confederate Pensioners for the month of August, since the bill is effective on the 10th day of the month.

"Should the warrant issued to a pensioner be for the full sum of \$80.00 for the month of August, or should it be prorated; or should it be for the sum of \$50.00, which is the amount authorized under the present law?"

Prior to the amendment referred to in your letter Article 6221, V. A. C. S., reads as follows:

"On the 1st day of each calendar month the Comptroller shall pay to each married veteran who is living with his wife, a pension of Fifty (\$50.00) Dollars per month for

Hon. George H. Sheppard, page 2

as long as they both may live, and after the death of either party, then the said veteran or his widow still living shall only draw an amount equal to other veterans or their widows. To each veteran now unmarried or a widower or widow who is drawing a pension or whose application may be hereafter approved, shall be paid the sum of Twenty-five (\$25.00) Dollars per month for each year, and the remainder of said pension fund (after reimbursing the General Revenue Fund for any advancement theretofore made to the Pension Fund) shall be equally prorated among all of said pensioners whose claims to pensions have been established and filed. All pensions shall begin on the first day of the calendar month following the approval of the application."

The relevant portion of Senate Bill No. 24 provides:

"On the first day of each calendar month the Comptroller shall pay to each married veteran who is living with his wife, a pension of Eighty (\$80.00) Dollars per month for as long as they both may live, and after the death of either party, then the said veteran, or his widow still living shall only draw an amount equal to other veterans or their widows. To each veteran now unmarried, or a widower, who is drawing a pension, or whose application may hereafter be approved, shall be paid the sum of Fifty (\$50.00) Dollars per month for each year. To each widow who is now drawing a pension, or whose application may hereafter be approved, shall be paid the sum of Thirty (\$30.00) Dollars per month for each year; provided that any person who has been granted a pension, and who is thereafter admitted as an inmate of the Confederate Home of this State, shall thereafter be entitled to receive pension

Hon. George H. Sheppard, page 3

payments of the amount of one-half ($\frac{1}{2}$) of the pension that such person would be entitled to receive if not an inmate of such home. (All pensions shall begin on the first day of the calendar month following the approval of the application.)"

It is apparent from the terms of both of these Acts that the Comptroller is authorized to make pension payments only on the first day of each month, and that the amount of such payments and the persons entitled to receive them are to be determined on the first day of each month. It is our understanding that when you mention payments "for the month of August" in your letter you refer to the payments to be made on September 1, since your department has long construed Article 6221 and its related Articles to provide that payments for a given month be made on the first day of the succeeding month. On the 1st day of September, Senate Bill No. 24 will be in full force and effect and under its terms you are authorized and ordered to make payments in accordance with the provisions of this Act. Since Section 51 of Article III of our Constitution specifically authorizes the legislature to grant pensions of this type "under such regulations and limitations as may be deemed by the legislature as expedient," we find no inhibitions against giving a literal interpretation to the language of this Act. Consequently, it is our opinion and you are respectfully advised that the pension payments to be made on the first day of September should be in the amounts authorized by Senate Bill No. 24.

Trusting that the foregoing fully answers your inquiry, we are

APPROVED JUN 19, 1943

Very truly yours

Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

ATTORNEY GENERAL OF TEXAS

BY

R. Dean Moorhead
R. Dean Moorhead
Assistant

RDM:fo

